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Application Number: LU/14787
Our File Reference Number: Farm 1611, Paarl
Your Reference Number:
Enquiries: Ulrich von Molendorff
Contact No: 021 – 808 8682
Email address: Ulrich.Vonmolendorff@stellenbosch.gov.za

PER E-MAIL: [redacted]

Sir / Madam

APPLICATION FOR PERMANENT DEPARTURE ON FARM 1611, PAARL DIVISION

1. The above application refers.

2. The duly authorised decision maker hereby decides on the above application as follows.

2.1 That the application in terms of Section 15(2)(b) of the Stellenbosch Municipality Land Use Planning By-Law, October 2015 for a permanent departure to permit the extension of the height of the existing masonry walls up to a maximum of 2.1m on Farm No. 1611, Paal Division.

BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.

2.2 The approval is subject to the following **conditions** imposed in terms of Section 66 of the said Bylaw:

i. The approval only applies to the departure application under consideration, as indicated on the amended and endorsed Site Plan with Project No. 01/22 CS102 Rev 2, drawn by J. Burger and dated 15/05/2023 (attached as **Annexure B**), and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.

ii. The development be undertaken generally in accordance with the amended and endorsed Site Plan with Project No. 01/22 CS102 Rev 2, drawn by J. Burger and dated 15/05/2023 (attached as **Annexure B**).

iii. The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.

iv. Building plans be submitted for approval for each section of the existing wall to be altered.

v. Building plans be generally in accordance with the amended and endorsed Site Plan with Project No. 01/22 CS102 Rev 2, drawn by J. Burger and dated 15/05/2023 (attached as **Annexure B**).

vi. No part of any boundary walls may exceed a height of 2.1m as measured from the natural ground level of the wall side facing outwards. Additional security features are permitted provided that such features shall remain visually permeable and not exceed a height of 0.5m, and subject to building plan approval.

2.3 The reasons for the above decision are as follow:

a. Additional security features such as spikes, electrical fencing/wiring are considered more effective as security measures than a solid wall. The security features are not included in the total height (2.1m) of a boundary division such as a fence, provided that said features shall remain visually permeable and not exceed a height of 0.5m.

b. The natural materials (river stones) used to construct the existing walls render it acceptable within the rural context as it blends in with the surroundings.

c. Extensions to the existing walls using the same natural materials (river stones) and which are limited to a height of 2.1m can be supported as it does not exceed the maximum height permitted for other boundary divisions in rural areas such as fences.

3. You are hereby informed in terms of section 79(2) of the Stellenbosch Municipal Land Use Planning Bylaw, 2015, of your right to appeal the above decision to the Appeal Authority within 21 days from the date of notification of the above decision. Please note that no late appeals or an extension of time for the submission of appeals are permitted in terms of Section 80(1)(a) of the said By-Law.

4. Appeals must be submitted with the prescribed information to satisfy the requirements of Section 80(2) of the said By-law, failing which the appeal will be invalid in terms of Section 81(1)(b) of the said By-Law. The following prescribed information is accordingly required:
   4.1 The personal particulars of the Appellant, including:
      i. First names and surname

ii. ID number

iii. Company of Legal person's name (if applicable)

iv. Physical Address

v. Contact details, including a Cell number and E-Mail address

4.2 Reference to this correspondence and the relevant property details on which the appeal is submitted.

4.3 The grounds of the appeal which may include the following grounds:

i. that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)

ii. grounds relating to the merits of the land development or land use application on which the appellant believes the authorised decision maker erred in coming to the conclusion it did.

4.4 Whether the appeal is lodged against the whole decision or a part of the decision.

4.5 If the appeal is lodged against a part of the decision, a description of the part.

4.6 If the appeal is lodged against a condition of approval, a description of the condition.

4.7 The factual or legal findings that the appellant relies on.

4.8 The relief sought by the appellant.

4.9 Any issue that the appellant wishes the Appeal Authority to consider in making its decision

4.10 That the appeal includes the following declaration by the Appellant:

i. The Appellant confirms that the information contained in the subject appeal and accompanied information and documentation is complete and correct

ii. That the Appellant is aware that it is and offence in terms of Section 86(1)(d) of the said By-Law to supply particulars, information, or answers in an appeal against a decision on an application, or in any documentation or representation related to an appeal, knowing it to be false, incorrect, or misleading or not believing them to be correct.

5. Appeals must be addressed to the Municipal Manager and submitted to his/ her designated official by means of e-mail at the following address: landuse.appeals@stellenbosch.gov.za.

6. Any party (applicant or other) who lodges an appeal must pay the applicable appeal fee in terms of the approved municipal tariffs and submit the proof of payment together with the appeal. The **LU** Reference number on this correspondence, or the applicable Erf/ Farm Number must be used as the reference for the payment of the appeal fee.

7. The approved tariff structure and the banking details for the General Account can be accessed and viewed on the municipal website. For any enquiries the office can be contacted at landuse.appeals@stellenbosch.gov.za.

8. An applicant who lodges an appeal must also adhere to the following requirements stipulated in terms of section 80(3) to (7) of the said By-law:

   (a) Simultaneously serve the appeal on any person who commented on the application concerned and any other person as the municipality may determine.
   (b) The notice by the applicant must invite persons to comment on the appeal within 21 days from date of notification of the appeal.
   (c) The notice must be served in accordance with section 35 of the said legislation and in accordance with the prescripts or such additional requirements as may be determined by the Municipality.
   (d) Proof of serving the notification must be submitted to the Municipality at the above E-mail address within 14 days of serving the notification.

9. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.
10. Kindly note the above decision in the case of any approval, is suspended, and may therefore not be acted on, until such time as the period for lodging appeals has lapsed, any appeal has been finalised and you've been advised accordingly.

Yours faithfully

FOR DIRECTOR PLANNING AND ECONOMIC DEVELOPMENT

DATE: 17/7/2023

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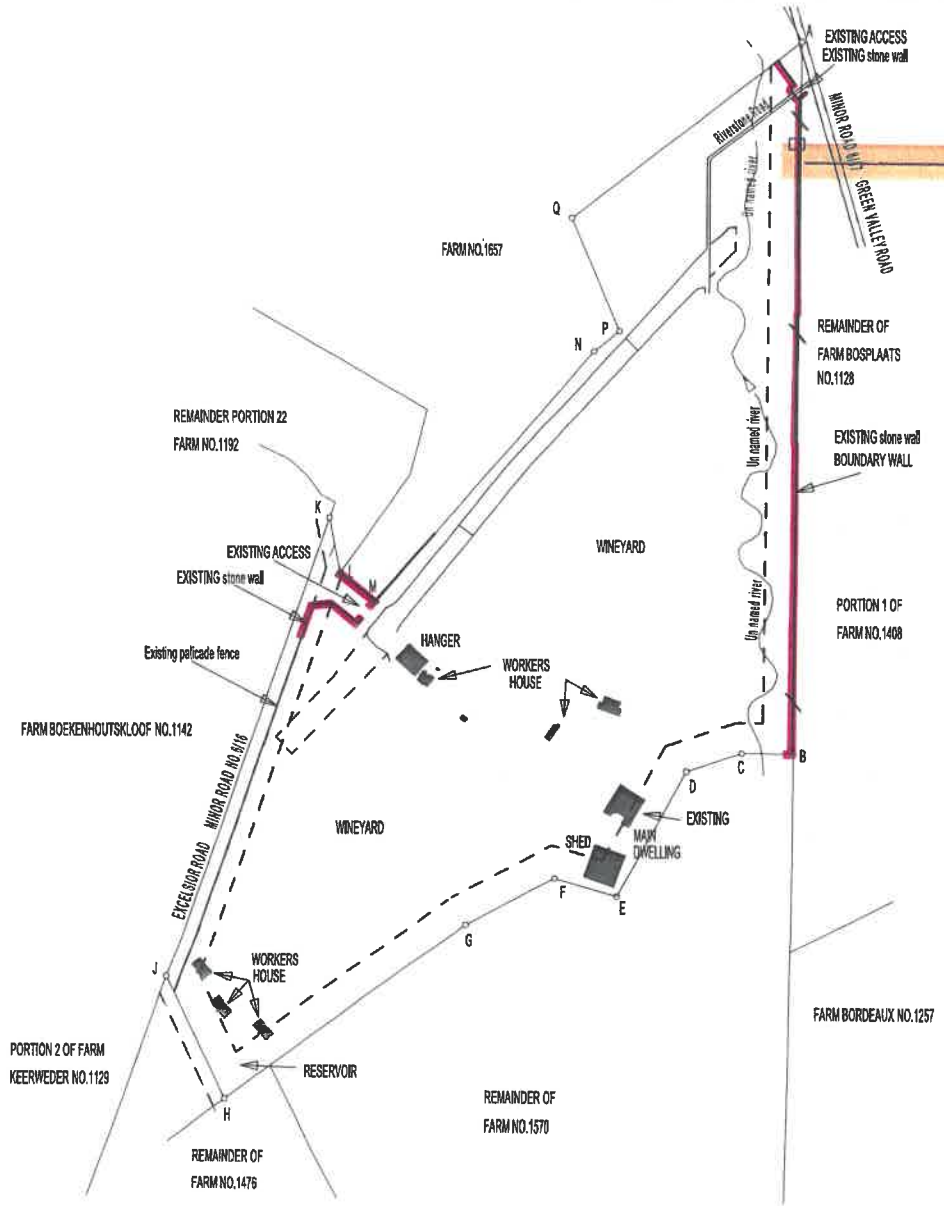
ANNEXURE B

SITE PLAN

APPLICATION FOR PERMANENT HEIGHT DEPARTURE OF EXISTING STONE WALL

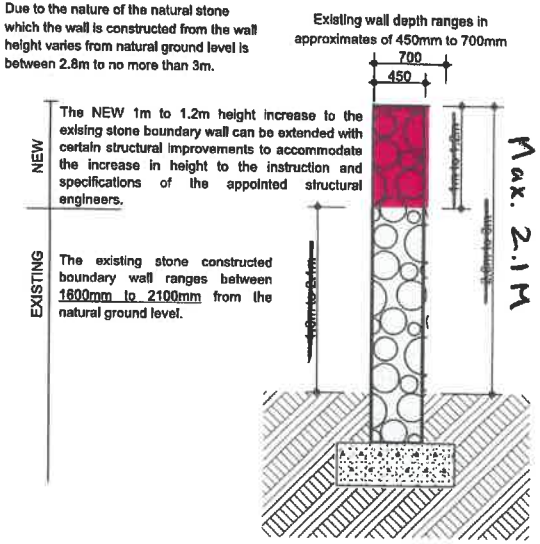


Site plan Scale 1:5000

Section A
Stone Boundary wall

Photos indicates existing wall height variants.

NOTE:
Due to the nature of the natural stone which the wall is constructed from the wall height varies from natural ground level is between 2.8m to no more than 3m.



Section A Scale 1:50

Motivation report:

Motivation only - Not approved

Motivation for an permanent departure application in terms of Section 15(2)(b) in terms of the Land Use Planning Bylaw in order to depart from section 215 (1) of the Zoning Scheme Bylaw for a masonry wall exceeding the permissible height of 2.1m to a new height not exceeding 3m from the natural floor level.
The site, Farm 1611, Belle Montagne, is located within an agricultural wine producing valley in Franschhoek. It is bordered by neighbouring farms and two Minor roads; Excelsior Road and Green Valley Road. The departure requests for the stone wall with its rock face makes it easy to breach the property. (refer to photo 1 & photo 2 for context). Children and locals have been able to breach the walls, which poses a security risk to the farm.

Context Photo 1 _ Entrance off Green Valley Road

Context Photo 2 _ Entrance off Excelsior Road

Request/application for permanent departure for a masonry/stone wall exceeding the permissible height

REVISIONS								
Rev ID	ChID	Change Name	Date	NOTES	DRAWING STATUS:	ISSUE DATE:	Drawing:	Project:
					FOR INFORMATION FOR APPROVAL FOR CONSENT FOR COSTING FOR CONSTRUCTION AS BUILT OTHER		Request/application for permanent departure for a masonry/stone wall exceeding the permissible height	Farm Belle Montagne Farm No. 1611 (Franschoek), situate in the Setellenbosch Municipality Administrative District of Paarl. Province of the Western Cape

[redacted]
7646
South Africa

Project Date: [redacted]
Date Printed: 2023/08/15
1:1000, 1:5000, 1:50

Project No. 01/22
CS102
Revision REV 2